

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**November 30, 2009**

- C058916      THE PEOPLE v.      (Not For Publication)**  
**DAVID JAMES BONDE**  
The judgment is modified to strike the \$10,000 Penal Code section 1202.45 parole revocation restitution fine. ... In all other respects, the judgment is affirmed.  
BLEASE, Acting P.J.  
We Concur: Nicholson, J.  
Cantil-Sakauye, J.
- C060443      THE PEOPLE v.      (Not For Publication)**  
**ROY LAVON SWEARENGIN**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Blease, J.  
Sims, J.
- C061290      THE PEOPLE v.      (Not For Publication)**  
**DASHANNA MARIE REED**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Nicholson, J.  
Hull, J.
- C058026      HOLBERT v. FREMONT      (Certified For Partial Publication)**  
**INVESTMENT & LOAN**  
The judgment is affirmed.  
HULL, J.  
We Concur: Blease, Acting P.J.  
Robie, J.
- C058947      SUNSET RANCHOS INVESTORS, LLC v.      (Not For Publication)**  
**MOLLISON et al.**  
The judgment is reversed and the matter remanded to the trial court for such further proceedings as are appropriate. Plaintiff is awarded its costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) . )  
HULL, J.  
We Concur: Blease, Acting P.J.  
Butz, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**November 30, 2009, Continued**

**C060304      Estate of JAMES LOWELL WHEELER,                      (Not For Publication)  
Deceased; RUSH v. WHEELER et al.**

The order is affirmed. The respondents are awarded their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2) . )

NICHOLSON, J.

We Concur:    Sims, Acting P.J.  
                     Cantil-Sakauye, J.

**C062268      THE PEOPLE v. SERGIO ZARAZUA                      (Certified For Publication)  
BY THE COURT:**

We publish this order to put to rest a challenge to a procedure commonly used by defendants to perfect appeals from judgments in criminal cases. ...

The People's "motion to vacate and reconsider [this court's] order granting [defendant's] request for permission to file [his] notice of appeal under the constructive filing doctrine" is denied.

THE COURT:

SCOTLAND, P.J.

Sims, J.

Cantil-Sakauye, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 1, 2009**

**IN THE  
Court of Appeal of the State of California**

**IN AND FOR THE  
THIRD APPELLATE DISTRICT**

**Special Calendar for Admission of Attorneys  
Sheraton Grand Sacramento Hotel  
Magnolia Room  
1230 J Street  
Sacramento**

**Tuesday, December 1, 2009, 10:00 a.m.**

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HON. Vance W. Raye	Acting Presiding Justice
HON. Harry E. Hull, Jr.	Associate Justice
HON. Tani Cantil-Sakauye	Associate Justice
Ms. Colette M. Bruggman	Assistant Clerk/Administrator
Ms. Kathy Wojnarowski	Assistant Deputy Clerk
Mr. Ben Haskett	Bailiff

Seating of State and local Bar representatives.

Court called to order by Mr. Ben Haskett.

Acting Presiding Justice Vance W. Raye welcomes admittees and introduces speakers.

Mr. Larry Sheingold, representing the Committee of Bar Examiners of the California State Bar, speaks to admittees and presents motion for admission.

Mr. Paul Kramer, Jr., representing the Board of Governors of the California State Bar, speaks to admittees.

Mr. Michael N. Mills, President of the Sacramento County Bar Association, speaks to admittees.

Associate Justice Harry E. Hull, Jr. speaks to admittees.

Associate Justice Tani Cantil-Sakauye speaks to admittees and reads from Section 6068 of the Business & Professions Code.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 1, 2009, Continued**

Acting Presiding Justice Vance W. Raye speaks to admittees, rules on motion for admission, and directs clerk to administer oath.

Oath administered by Ms. Colette M. Bruggman, Assistant Clerk/Administrator. Post admission announcement.

Court adjourns.

**C058828      THE PEOPLE v.      (Not For Publication)  
MIGUEL ANGEL CABRERA**

Defendant's conviction on count four of the indictment is reversed. The trial court is further directed to include in the amended abstract of judgment that the sentence on count two is stayed pursuant to section 654, and deliver a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

BLEASE, Acting P.J.  
We Concur: Nicholson, J.  
Butz, J.

**December 2, 2009**

**C049069      THE PEOPLE v. SARUN CHUN      (Not For Publication)**

The judgment is modified to delete the 10-year gang enhancement imposed under Penal Code section 186.22, subdivision (b) (1) (c); in all other respects the judgment is affirmed.

CANTIL-SAKAUYE, J.  
We Concur: Blease, Acting P.J.  
Nicholson, J.

**C058349      THE PEOPLE v.      (Not For Publication)  
BRUCE LARRY MOORE**

The judgment is affirmed.  
SCOTLAND, P.J.

We Concur: Blease, J.  
Hull, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 2, 2009, Continued**

**C058389      THE PEOPLE v.      (Certified For Partial Publication)  
DAVID LOUIS FULTON**

The matter is remanded to the trial court for clarification of the fees and fines imposed for driving on a suspended license, a misdemeanor, count II, and amendment/correction of the abstract to so reflect. A certified copy of the amended/corrected abstract of judgment is to be forwarded to the Department of Corrections and Rehabilitation. The judgment is otherwise affirmed.

SIMS, Acting P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

**C058856      THE PEOPLE v.      (Not For Publication)  
PHARAOH ELISIA BROOKS**

The judgment is modified by staying service of the sentence imposed for count 2 (burglary). Consequently, defendant's total determinate sentence is three years, which is consecutive to his indeterminate sentence of life in prison with possibility of parole. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment and to send a certified copy of the same to the Department of Corrections and Rehabilitation.

SIMS, Acting P.J.

We Concur: Hull, J.

Butz, J.

**C060754      THE PEOPLE v.      (Not For Publication)  
BRAD LEE LONG**

The judgment is affirmed.

BLEASE, Acting P.J.

We Concur: Sims, J.

Butz, J.

**C061105      THE PEOPLE v. KALI MATRINE      (Not For Publication)**

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Sims, Acting P.J.

Hull, J.

**C061982      THE PEOPLE v.      (Not For Publication)  
CURTIS JOHN ATKINSON**

The order granting probation is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Sims, Acting P.J.

Hull, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 2, 2009, Continued**

- C062292      THE PEOPLE v. WILLIE DABNEY      (Not For Publication)**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur:    Sims, Acting P.J.  
Hull, J.
- C062327      THE PEOPLE v.      (Not For Publication)**  
**STEVEN DONALD TABER**  
The judgment is affirmed.  
HULL, J.  
We Concur:    Sims, Acting P.J.  
Cantil-Sakauye, J.
- C058975      DONLEY v. DAVI, as Commissioner, etc.      (Not For Publication)**  
The judgment is affirmed. Costs on appeal are awarded to respondent.  
(Cal. Rules of Court, rule 8.278 (a) (1) . )  
CANTIL-SAKAUYE, J.  
We Concur:    Blease, Acting P.J.  
Butz, J.
- C059983      SINGH et al. v. CITY OF STOCKTON et al.      (Not For Publication)**  
The judgment is reversed with directions to the trial court to issue a writ of mandate commanding the City to set aside its decision of December 12, 2006 revoking the Singhs' nonconforming use status. The previously issued stay, having served its purpose, is dissolved. The Singhs shall recover costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2) . )  
CANTIL-SAKAUYE, J.  
We Concur:    Scotland, P.J.  
Raye, J.
- C056083      In re DAVID EARL GRAY      (Certified For Publication)**  
**on Habeas Corpus.; THE PEOPLE v.**  
**DAVID EARL GRAY**  
Let a writ of habeas corpus issue giving Gray the opportunity, within 30 days after the finality of this opinion, to file in the clerk's office of the Sacramento County Superior Court, a notice of appeal from the judgment rendered on July 16, 2007, in *People v. David Gray*, Sacramento County Superior Court case No. 05F09779. ... Having served its purpose, the order to show cause is discharged.  
SCOTLAND, P.J.  
We Concur:    Blease, J.  
Sims, J.

**COURT OF APPEAL  
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**Court Minutes**

**December 3, 2009**

- C056767      THE PEOPLE v.      (Not For Publication)**  
**ERNESTO BECERRA ESPINOZA**  
The judgment is affirmed.  
NICHOLSON, J.  
We Concur:    Sims, Acting P.J.  
Robie, J.
- C058613      THE PEOPLE v.      (Not For Publication)**  
**DANIEL AGUILAR et al.**  
The judgments are affirmed.  
BLEASE, Acting P.J.  
We Concur:    Robie, J.  
Cantil-Sakauye, J.
- C061562      THE PEOPLE v.      (Not For Publication)**  
**EUGENE FRANKLIN CARLISLE**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to indicate that defendant admitted a strike conviction, and to forward to the Department of Corrections and Rehabilitation a certified copy of the corrected abstract of judgment.  
RAYE, J.  
We Concur:    Sims, Acting P.J.  
Nicholson, J.
- C058356      BERMUDEZ et al. v.      (Certified For Publication)**  
**FULTON AUTO DEPOT, LLC, et al.**  
The judgment is affirmed. The defendants are awarded their costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (2) . )  
NICHOLSON, J.  
We Concur:    Scotland, P.J.  
Robie, J.
- C060318      EL DORADO COUNTY DEPARTMENT      (Not For Publication)**  
**OF CHILD SUPPORT SERVICES v.**  
**ELLINWOOD; WILFONG**  
The judgment is affirmed. Wilfong shall reimburse Ellinwood for his costs on appeal. (Cal. Rules of Court, rule 8.278 (a) (1) . )  
NICHOLSON, Acting P.J.  
We Concur:    Robie, J.  
Butz, J.

**COURT OF APPEAL  
STATE OF CALIFORNIA  
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**Court Minutes**

**December 3, 2009, Continued**

- C061764**      **In re R.R.; SACRAMENTO COUNTY**      **(Not For Publication)**  
**DEPARTMENT OF HEALTH AND**  
**HUMAN SERVICES v. M.M. et al.**  
The orders of the juvenile court are affirmed.  
RAYE, J.  
I concur:      Nicholson, J.  
I respectfully dissent from the analysis and result of the majority opinion. The majority opinion affirms the judgment terminating the parental rights of R.R. and placing her for adoption. ... I seems to me that the only sensible thing to do is to reverse the orders terminating R.R.'s parental rights and placing her for adoption, and remand to the juvenile court for consideration of the situation in light of whatever circumstances may exist with respect to the three older siblings. R.R. and her three siblings should remain together.  
Sims, Acting P.J.
- C059872**      **THE PEOPLE v.**      **(Certified For Partial Publication)**  
**GREGORY FRED ZIELESCH**  
THE COURT:  
It is ordered that the opinion filed in this case on November 23, 2009, be modified as follows:  
In the last sentence of footnote 2 on page 8, replace the word defendant with the word he so the sentence reads: He also told Nicholson that the reason he shot Officer Stevens was that he "didn't want to go back to jail."  
FOR THE COURT:  
SCOTLAND, P.J.  
Nicholson, J.  
Robie, J.
- C060950**      **THE PEOPLE v. STEVE THOMAS STARR**  
**BY THE COURT:**  
Appellant's petition for rehearing is denied.  
BLEASE, Acting P.J.

**December 4, 2009**

- C061345**      **THE PEOPLE v.**      **(Not For Publication)**  
**RAYMOND LEONARD LUPER**  
The appeal is dismissed.  
NICHOLSON, J.  
We Concur:      Scotland, P.J.  
Robie, J.



**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**December 4, 2009, Continued**

**C058944      MARTIN BROTHERS CONSTRUCTION,      (Certified For Publication)  
INC. v. THOMPSON PACIFIC  
CONSTRUCTION, INC., et al.**

The judgment is affirmed. Costs on appeal are awarded to respondents.  
(Cal. Rules of Court, rule 8.278 (a) (1) . )

CANTIL-SAKAUYE, J.

We Concur:    Sims, Acting P.J.

Raye, J.

**C059921      HERENDEEN v. WATSON      (Not For Publication)**

The judgment issuing the DVRO is affirmed. Herendeen is awarded her  
costs of this appeal. (Cal. Rules of Court, rule 8.278 (a) (1) . )

NICHOLSON, Acting P.J.

We Concur:    Robie, J.

Butz, J.

**C058592      LOPEZ, a Minor, etc., et al. v.      (Certified For Publication)  
DAIMLER CHRYSLER CORPORATION,  
et al.; DEPARTMENT OF HEALTH CARE  
SERVICES**

THE COURT:

The opinion in the above-entitled matter filed on November 5, 2009, was  
not certified for publication in the Official Reports. For good cause it now  
appears that the opinion should be published in the Official Reports and it is so  
ordered.

BY THE COURT:

SCOTLAND, P.J.

Raye, J.

Robie, J.